

UNITED STATES SMALL BUSINESS ADMINISTRATION

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PROCEEDINGS

[START RECORDING]

KIRK ORTEGA: [Inaudible] very personal to me and to my family and to my business, and I'm not a professional speaker, so I might jump around a little [inaudible]. We started our business in 1991, my brother and I, [inaudible] Ortega General Contractors. We're located up in Washington Heights. We were certified as an [inaudible] firm [inaudible]. It's important because before that we were just starting out a relatively young business and we felt that the way to grow our business was through [inaudible]. Part of the reason we were so excited about becoming ANA contractors was it gave us an opportunity to work within the federal government and [inaudible] to meet our objectives. There was the Army Corps of Engineers and West Point. [Inaudible] support our troops [inaudible].

Before we got involved in [inaudible] we probably did no more than half [inaudible] years of existence. Since then, we probably did [inaudible] in that three year span we probably did [inaudible]. In fact, I'm pretty proud of the fact that I got to [inaudible] for the morning show talking about how well we did and advocated the SBA as a [inaudible]. We have [inaudible] most people move out [inaudible] and actually worked out for us because they have [inaudible] as well.

We've always been active. In fact the last job that we did before we had trouble was on a \$5 million project [inaudible]. But before that we did a \$5 million project, that was actually budgeted for \$60 million. We designed [Inaudible] engineering, we were able to do it [inaudible] barracks that could house double the troops and be comfortable. That project was probably 100 percent small business. [Inaudible] that project, so we're very proud of that.

The issue that I'm concerned about [inaudible], that project that we're talking about that we built these two barracks [inaudible] 60 units for about \$5 million. Very, very simple construction [inaudible] construction. [Inaudible] construction of not that difficult a project. It was really 60 units, it was almost like dorm style so you would have, what they wanted [inaudible] individual apartments. We built [inaudible] with a common kitchen, restroom, TV room, you know, like. The issue really arises with [inaudible] projects [inaudible] just now [inaudible] hired a couple of contractors that didn't do very well. One of them [inaudible] business, and the other one was a company by the name of Rose Electric. [Inaudible] his total contract was about \$475,000, or maybe 9 percent of the total project.

Obviously when there's a conflict [inaudible] the project, the subcontractor [inaudible] ways to vent their frustration, and I think one of the ways that he went about doing that was actually [inaudible]

particular contract. He then went ahead to the department of labor and [inaudible] complaints.

This happened probably beginning of [inaudible] but just to move back to [inaudible] this particular contractor [inaudible] Times Square [inaudible] running electrical wires through the ceiling, you know, [inaudible] difficult. All the requirements [inaudible] army base, which was our core [inaudible] you'll understand what I'm getting at right now, was [inaudible] you needed access. Because of 9/11 there was no way [inaudible] special access cards. It would've been impossible for electricians or anybody to get on the base if they didn't have the proper ID.

So these things, on top of that, when you work with other [inaudible] you also have what we call a [inaudible] control report, and a quality assurance report. Quality reports are basically [inaudible] assurances [inaudible] this is basically what that does, it counts as an issuer [inaudible] can see who's [inaudible]. There was a [inaudible] but there was no [Inaudible]. What we tried to do is when we [inaudible] there might be twelve people there [inaudible] four electricians, five electricians, [inaudible] and so forth and you [inaudible].

[Inaudible] certified payroll [inaudible]. Individuals wouldn't have, people were running all over the place [inaudible]. The reports produced on this project specifically [inaudible] identify each contractor. Again the [inaudible]. The Corps of Engineers was also there to qualify subcontractors and also to make sure that [inaudible] U.S. Army Corps of Engineers [inaudible] specifically to identify workers, to make sure that they're also getting proper wages, and if there's any discrepancies [inaudible] we would get a letter basically telling us that this guy is saying that he's getting \$20 an hour but [inaudible] subcontractors [inaudible] or have them come back with something in writing saying [inaudible] saying that he's actually been paid the wage that he was supposed to. So that's an ongoing thing that's paperwork.

Of course small business is difficult [inaudible]. So we understood what we had to do. We tried to stay on top of it as best we could. And we [inaudible] but the bottom line [inaudible] light switches are not put down properly, those responsibilities [inaudible] before they were released and then [inaudible].

So that's the hammer [inaudible]. As I said earlier we terminated Rose in [inaudible] 2003. September 15th or thereabouts we were about 99 percent complete on this particular project. We were just closing it out, everybody knows construction [inaudible] contractor finishes their project, they come back in, potentially [inaudible] smudges on the wall, or the light fixture is not [inaudible] properly, [inaudible] fix those things. So 99 percent complete in December,

[inaudible] calling in another electrician after this to switch on a [inaudible].

Also about that time we were in [inaudible] in addition to that, there was vandalism after Rose Electric was terminated, they, we believe, the FBI investigated [inaudible] cut all of the wires [inaudible]. So we'd actually asked for the end between August and September basically do all of the main switches [inaudible] troops in time [inaudible] a lot of money [inaudible] a lot of position. [Inaudible] insurance [inaudible] we had problems with the police on that particular incident [inaudible].

Then on 9/24, Corps of Engineers contacted [inaudible]. Around August Rose Electric went in and filed a [inaudible] unpaid wages. Essentially we paid them but they believed that they [inaudible] the balance of their contract [inaudible] to hire another electrician, they still wanted that money. They basically went in, made a claim and then got his employees to come in and say that they weren't paid proper wages. At no time did the [unintelligible] this is important for a small business [inaudible] because in some [inaudible] the small business, I don't know why some government agencies are all [Inaudible] that we don't pay our bills and we don't pay our bills [inaudible].

Now [inaudible] we did about \$21 million worth of work [inaudible] never any problems with [inaudible]. DOL has admitted themselves that there's no issue on whether we paid our subcontractor. The issue here is simply from their perspective is that the subcontractor didn't pay his employees. So although we don't have any financial responsibility to pay my subcontractor's employees, even though we paid them, that's been documented, we have [inaudible] a fiscal responsibility to [inaudible], which I believe [inaudible] especially if [inaudible].

Part of the problem is that I see, and I have some papers here [inaudible] identify some of the things [inaudible] some of the issues that I have is simply that of all things, and I'm sure that that [inaudible] is in effect [inaudible] but what it has done to a small business like myself is essentially turned it on its ear. We have not gotten [inaudible] almost since the inception of [inaudible] everyone here knows because you gentlemen from the national [inaudible] federal agencies by first name. New York is a small community, very small community, and we were the poster child of [inaudible]. We've done socialist work up the hiney. [Inaudible] took full advantage of the [inaudible] program and we did good work.

Can you imagine, nobody's [inaudible] the issues. Someone from DOL says or writes a letter saying we are now [inaudible] we want you to hold those [inaudible]. What that does to a small company [inaudible]. First impression's that [inaudible] subcontractor. Now do I go to every agency and say that's not true? Impossible. Impossible.

So everybody's scared off. The DOL [inaudible] they had full access to all of our [inaudible]. They never told us what they were looking for. There was never a list saying these are the ten items that we need. It's almost as if you're guilty until proven innocent. But unless you have a high powered attorney to help you through that process [inaudible] given DOL things in piecemeal because there is no [inaudible] that they're looking for.

In fact the standard answer was you should know what we're looking for. It's almost like talking to [inaudible]. Here you just don't know. There are some common sense things that you should know about, it's listed in the contract. Things that you're supposed to have. We try to go through that [inaudible], and we never get to see the man that's [inaudible] they never say this is what you have to answer to.

Our main point is there's [inaudible] as I said earlier, DOL came to the [inaudible]. They came back and told us that we had to pay them \$970,000. Keep in mind that the total contract of electrical work is \$475,000. When you take into account that \$475,000 was only 9 percent of the total contract [inaudible]. The original contract was \$450,000, they're claiming just on the electric portion that [inaudible] that \$425,000 [inaudible] 425,000 additional dollars was owed to them [inaudible]. The employees claimed that they had worked an additional 6,670 hours. Never mind that they're claiming that they worked thousands of hours after September 15th when the project was [inaudible].

The total construction hours for all subs was 14,000 hours. Of that, Rose Electric is claiming that they worked for 9,000 of them, which leaves approximately 2,700 hours for the other subs to complete a \$5 million project. So the disconnect to me becomes [inaudible]. I understand that DOL has to take testimony from these particular employees, but to [inaudible] is beyond me, because I'm not the guy who didn't pay those employees. When they came to me, [inaudible] I asked them give me time to try to figure out, I'll get you the information. I begged and implored them to not make a decision on [inaudible] destroy my company.

They sent out the letter anyway to the [inaudible] our name. So for a year I've had \$500,000 in money being held until this is resolved, and whenever I bring up an issue I get hit with well you can always go ahead and fight it, but then [inaudible].

My reluctance [inaudible] today and I've been advised by [inaudible] attorney [inaudible] because again I'm always concerned about it coming back and really hurting me. My position here really is that [inaudible]. I'm sure there's issues that you're concerned, there's some paperwork, there's the things we left out, but nothing [inaudible] and nothing that I thought that two people in a room couldn't try to resolve, especially when you consider that again we paid the

subcontractor, he didn't pay his employees. [Inaudible].

A lot of this stuff that I talked about and this writing that I wrote [inaudible] when I looked at it again I thought it might be a little bit redundant. I'm not, as I said before, I'm not [inaudible]. I'm more comfortable with questions and answers. I tend to react to that better [inaudible]. I think what's happened here from my perspective is that when [inaudible] I had over 20 employees. I'm down to [inaudible].

Imagine them withholding your money. Obviously if they're withholding the money there are subcontractors that have to be paid. [Inaudible] people are not in construction [inaudible] have been dwindling. People are going out of the business or just plain out of business. So now DOL [inaudible]. Army Corps of Engineers have the responsibility to put a stop to this [inaudible] which means I can't pay my subcontractors or my employees or my [inaudible]. They withhold the money before I have an opportunity to go before anybody to [Inaudible] I don't even know what they want. In fact these same eight employees, this is [inaudible], these same eight employees out of the blue called my office and asked me what's going on on DOL, because [inaudible]. I can't even believe you're calling me. Aren't you the guys who put this claim in? It wasn't [inaudible] we signed off on.

Keep in mind also that eight of these guys only speak Spanish [inaudible]. The bottom line is that they came in, all eight guys, to sign affidavits claiming that they were unpaid 500,000. In fact all eight of them combined claimed that they were only paid, that they were only owed by Rose Electric about \$60,000. Ridiculous. When they came to my office I was with me and my brother and the secretary. All eight [inaudible] all eight [inaudible] translate these things in Spanish, and then all eight asked us to go down to DOL to concur that they signed this in good faith. DOL told them that this was [inaudible] and they wouldn't [inaudible].

They said that me and my brother, I'm not a small guy, I chubbed up a little bit, that we coerced these guys. We held them hostage in our office for three hours while they handed us their licenses and signed off on these affidavits. And in fact when I came in they kicked me out of the office and said they couldn't speak to me [inaudible] and then we went back to find out the findings and [inaudible] release the funds, they told us that we coerced them and forced them and in fact they're going to raise the amount of money that we owe another \$20,000.

PETER SORUM: Kirk do you have the specifics in writing in the comment that you submitted?

MR. ORTEGA: [Inaudible].

MR. SORUM: Okay. Well you had the opportunity to tell our folks from labor what your concerns are. You got the high level folks

right here, and we'll get you an answer. Okay. I thank you very much.

MR. ORTEGA: Thank you.

MR. SORUM: By the way what position did you play?

[Crosstalk]

MALE VOICE: Did you get this?

MR. SORUM: Oh thank you.

MALE VOICE: Notes [inaudible].

[Crosstalk]

MR. SORUM: Racine Berkow? Did I pronounce that right?

RACINE BERKOW: Yeah. [Inaudible] my name is Racine Berkow and I'm president of Racine Berkow Associates. We are freight forwarders and customs brokers. We specialize in [inaudible] and [inaudible] exhibitions. Can you hear me? Okay.

We're a small company in a niche business that is finite and competitive. We appreciate having an opportunity to express our concerns to people who could possibly make a difference. There are two specific agencies that I would like to address. From what was said I think it's really under one agency [inaudible] affect my daily business, and that's U.S. Customs and the TSA, firstly U.S. Customs.

I feel that it is [inaudible] we are held to one standard where companies like FedEx are held to another. I feel that this is unfair as we are all supposed to be governed by these same Customs regulations of the United States. For example, FedEx routinely clears shipments that are consigned to other brokers under their own company, FedEx Trade Networks. They do not get power of attorney from the consignee and obtain the importer's federal ID number without the importer's authorization or under what I consider confusing circumstances.

For example, we have a client who was given a piece of paper to sign before FedEx would release their shipment that was just the importer ID record. Now the client had no idea what that was. They knew they had a shipment coming in, so they filled out the importer ID record. They just told oh please fill out this piece of paper. All right.

I've brought with me an example of documents for shipments valued at approximately \$100,000 that simply arrived at our office. Our client purchased a painting at a London auction house. He designated RBA as his broker. Instead of contacting us, FedEx simply delivered the freight—by the way, upside down—to my office. To the best of my knowledge FedEx never contacted us for a power of attorney. We have an account with them so it's very possible that they had our tax ID number. We are not the ultimate consignee. By making an entry in this manner we were left vulnerable for a possible New York State usage tax, you know,⁷ which is an issue when you import

some high value objects. The state of New York and some other states within the United States, you know, come back to you for a usage tax.

So that would mean that we're left possibly vulnerable for, you know, another \$8,650. I feel that the use of my tax ID number without my authorization is a violation of my privacy.

I also brought with me an example of another shipment that was consigned to a colleague in Chicago. Again FedEx did not follow verbal instructions and fish and wildlife seized the shipment. This kind of action by FedEx and some of these other big consolidators jeopardized our relationship with our clients. It makes it difficult for us to compete. To the best of my knowledge, every time the brokers' association complained, nothing happened. If we as small brokers transacted business in this manner, we would be out of business. Unfortunately as small businesses we cannot afford an army of lawyers and lobbyists to induce government agencies to look the other way.

All I'm asking is that the same rules be applied to everyone. Part of the responsibility of being a broker is ethical behavior. I don't think stealing other people's shipments is ethical, especially if they haven't authorized you to act on their behalf. I also think that in today's environment of heightened security awareness, use of people's IRS numbers inappropriately is a real issue.

And my other concern is with the Transportation Security Administration. We participate in the indirect air carrier's security program. We were recently audited. Although we make every effort to be in compliance, even to the point of getting [inaudible] from our clients, we feel that the definition of known shipper is too limited and should be expanded. There also should be some latitude in interpretation. It's my understanding that a known shipper is someone who has shipped three times prior to 9/1/1999, has transacted 24 shipments, or, you know, has a [inaudible]. If we strictly adhere to the definition of known shipper, it would require us to travel around the world to conduct site visits, which would be prohibitively expensive.

The reality is that I have traveled extensively during the past 18 years we've been in business and know who I'm dealing with. It's very likely that my overseas clients were visited prior to 1999, but visited nevertheless. A lot of our business comes from overseas agents who are in the same business as we are. Nobody contacts a company like mine out of the phone book to ship a million dollar painting. It's done on reputation and by referral. Since we deal with such high value objects, we take extraordinary precautions to avoid insurance claims and other liability. For the most part we take responsibility for packing the freights.

It's interesting to note that during our audit we were advised that the definition of shipper is the one who initiates the shipment. However, when a colleague of mine was audited in California,

and his posting record showed the shipper was the person who actually gave them the merchandise and had recorded the site visit. So, you know, I just think that perhaps the whole definition of, you know, known shipper really has to be more clarified so that it can be unilaterally interpreted.

It is my understanding that, we were told, that if a shipment is initiated by an overseas entity that they are the shipper, rather than the person who actually gave you the freight. Okay. At the same time some of our competitors were not, you know, freight forwarders and who are not IAC give their shipments to consolidators. Okay. The consolidator receives the shipment from the packer, who does not have to comply with any of these regulations, and they send it out [inaudible].

I mean let's say, you know, ABC Consolidators gets a shipment from XYZ Packer, and they list XYZ Packer as the shipper, when in fact they're not. It's their client and it could also have been initiated by an overseas entity. But that's not been researched and documented.

Anyway, the packet consigner is not the shipper as defined, as my understanding as defined by the TSA, and the shipment may have been initiated by an overseas entity. No one is any the wiser. All I'm asking the TSA put in their definition of known shipper allowing sectors in the field to have some latitude in interpreting compliance and better scrutiny of consolidators. We at RBA already have high standards but we don't want to be held to unreasonable ones.

Thank you.

MR. SORUM: Thank you. Do we have your comment in writing so we can submit it?

MS. BERKOW: Yes. I'll have to redo this and I also forgot that and I also have examples of the shipment that one of my colleagues in Chicago that was seized by fish and wildlife [inaudible].

MR. SORUM: Okay. If you'd put that together and get it to us.

MS. BERKOW: Yes I will. Thank you.

MR. SORUM: Thank you. Is my friend Lisa Dolan here? She and I correspond regularly.

[Laughter]

LISA DOLAN: My name is Lisa Dolan and my company is Securit. We're an [inaudible] private investigation and security firm. The reason I'm here is we put a protest in with our FAA. [Inaudible] there was a [inaudible] set aside contract that a market research was conducted by the contracting officer prior to the bids going in. We responded to the market research with our capability statement and the fact that we were teaming with a branch of the [inaudible] program at [inaudible] security. The contracting officer accepted that

and we were invited into the [inaudible]. We submitted our bid and during the course of the time that we had submitted it I had many conversations with the contracting officer.

One was you realize that Alante [phonetic] is using you for teaming with him, [inaudible]. Many times we spoke about teaming versus joint venturing and I had to educate the contracting officer on why there's a difference between teaming and joint venturing. We received a letter from the contracting officer asking us for a 60-day extension of time to make a decision. We signed off on that. After 68 days we received a letter from the contracting officer telling us that we were not successful in being awarded the contract and I called and asked for a debriefing the day that I received the letter. During the debriefing I was told by the contracting officer that the reason we weren't successful is because we didn't have five years' experience and we needed approval for our teaming agreement. However in her letter she said we needed permission from the SBA for a joint venture.

So I explained to the contracting officer you do not need permission for a teaming agreement until [inaudible] section 124.510, the SBA [inaudible] the contract. So the SBA did not have to give permission. They only have to give permission for a joint venture. They said well you don't have five years' experience. I said that was the whole point of teaming with Alante [phonetic], they have 15 plus years [Inaudible]. She said I could formally protest, which I did.

I filed my protest. I filed it with the GAO as well as with the FAA within three days of my debriefing. A couple of months went by, I didn't hear anything. I contacted the contracting officer and said can you tell me when I'm going to hear something on our protest. She said Brenda Kelly will get in touch with you. Brenda Kelly finally called me, the counsel for FAA, [inaudible] you didn't file your protest in a timely fashion so we don't even have to recognize it. I said I did file my protest in a timely fashion and I have my receipts from my certified mailing that it was submitted in a timely fashion. Could you put that in writing? Well I never bothered to write it, so I had to go to [inaudible].

I recently received a finding from the DOT on my protest. And basically what they said was it was just consideration of the contracting officer's decision. So I asked the attorney at the DOT did you bother to read my protest and all the documents, the irrefutable documentation that I submitted? [Inaudible] if you look at the CFR, you'll understand it. She said I don't really do contracts, I'm not really well versed in the CFR. How sad is that? That you can render a decision but you're not well versed in things that are codified [inaudible].

So that's what I intended to say and so I think really my point is—it's a few things. One is if the contracting officer who's letting the contract go—they should really be and have a clear understanding of what teaming is and when it's allowed and how, and the spirit of it and

how it's written in the CFR, and if teaming is not allowed they should say, then it should be written that it's not allowed. And she had advance notice because she [inaudible] and we responded with our teaming agreement with all our [unintelligible] so she knew we alone had four years, not five, but that's why we were teaming with [unintelligible].

So I think when they put people in charge of contracts they need to definitely have a clear understanding of what's written in the [inaudible] and those who are going to render a decision based on a protest certainly I think it's unconscionable that they can render a decision never having looked at my paperwork, not understanding the [inaudible] and only [unintelligible] what the contracting officer said in her letter to me.

So I think it's unfair and I would like a reconsideration on that. Thank you.

MR. SORUM: As I said, Lisa and I have corresponded on a number of occasions and the bottom line in her case was her bid was \$600,000 higher than the winning bid, so that's why she didn't get the contract.

MS. DOLAN: Okay. First of all it wasn't \$600,000, but second of all if that's the reason they weren't going to give it to us they had to put it in the letter. The reason they put in the letter was we lacked five years' experience and we lacked permission from the SBA. If they had said your bid was too high, we would not have a leg to stand on. That is not what they said. You can't go back and then make a decision, say oh by the way you were a little higher when we could've had the chance to renegotiate. They never said in their first letter. In fact they never said [inaudible]. That's why [inaudible].

MR. SORUM: Why do I have the letter?

MS. DOLAN: You have—

MR. SORUM: It says that.

MS. DOLAN: No, you don't have, that was not the reason. I have the letter right here and it, she clearly said in the debriefing when I asked her why were we denied and she said you lack the experience, the five years, and you needed permission, and that is clearly what's written in all the documents. Yes we were three, 400,000 higher than the incumbent, but in all my other past experience as a government contractor, if ever I was not successful in getting a contract awarded, it stated your price was higher than the incumbent. That's the difference. You can't now go back and say that's the reason we were not awarded the contract. You have to state that in the beginning. You can't go back and say oh and by the way not only didn't you have five years, not only didn't you have a teaming, permission to team, but you were higher. Then I wouldn't have anything to say. But that's not

what they said. They said it after. That's what DOT said afterwards in their protest. That was their third reason for denial on the contract. That was not the reason at the beginning.

Now because it's convenient for them to say that, yes it's true we were higher, but we were never told that that was the reason. What we were told is that we lacked the five years' experience and we lacked permission. If in fact that really wasn't the true reason. That's my only point.

MR. SORUM: I understand.

MS. DOLAN: Thank you.

MR. SORUM: We, like I said we've gone back and forth for some time. Ethel and don't ask me to...

FEMALE VOICE: [Inaudible].

MR. SORUM: Yes please. Please introduce yourself because I'm having a problem trying to figure out the, how these letters...

ETHEL UGBEBOR: My name's Ethel Ugbebor. I'm the president of Universal Language Corporation [inaudible]. We're professional [inaudible] transportation and [inaudible] government. I'll make this very brief. We have two concerns or two problems of concern. We've, JFK [inaudible] immigration customs enforcement and New York New Jersey [inaudible].

We have been providing transportation services [inaudible] to the government or [inaudible] but last 2004 [inaudible] of 2004 we were invited by [inaudible] and JFK for [inaudible] and we, this was a [inaudible] 2003. And up until this day we have not been paid for [inaudible] 2002 and [inaudible] September of 2004 and then he approached me [inaudible] \$20,000.

The reason we are so much concerned about this is because in the past, 2003 we have suffered some losses from DEA Chicago while we are [inaudible] we had a wonderful [inaudible] DEA special operation division and she [inaudible] and she made quite some research [inaudible] but unfortunately I read about two months ago she was, she got by [inaudible] security program in Washington, and [inaudible] took over from her did not have any knowledge of our services and she [inaudible] until this day we have lost that amount because I'm not able to contact, I can't [inaudible] because she is now in another division altogether.

So my concern is [inaudible] you would imagine that we [inaudible] three to six months, but if it goes beyond ten months unless we are [inaudible] the chances of that, we're going to have to wait another fiscal year and then [inaudible].

And that's why I'm bringing this issue here, simply that some of you wonderful gentlemen₁₂ [inaudible] to intervene and see

that something is done about [inaudible].

The second problem which is of great concern to me is [inaudible]. In 2003 we applied for [inaudible] and up until August of last year I had no response from GSA. [Inaudible] SBA organized [inaudible] and I met with some GSA official and I was advised to call a particular number, which I did. I spoke with the lady and she told me the best advice she could offer was to withdraw from that [inaudible] which I did. That submission was made on July 5 of 2004. We had [inaudible] but July 21st of 2004 our proposal was sent to a gentleman from GSA [inaudible] West Coast and he responded to us by email on July 28 asking about [inaudible].

Ever since then we've been contacting each other by either telephone or email and that has been the [inaudible] regarding our [inaudible]. By late, by August 8, 2004, I received an email where he acknowledged [inaudible] proposal and did [inaudible] we should give him some time. September he [inaudible] I would call him or send an email. By September 26 of 2004, he sent me a [inaudible] and he said to give him a little bit of time [inaudible] a couple of days. And by October of 2004, I received an email, I believe the email was sent October [inaudible] a package on October 18 and he [inaudible] we should give a response to some of the questions by October 20th, which we did. By October 20th he acknowledged receiving our response.

And by November of 2004 he sent me an email and he said [inaudible] I'm reviewing your [inaudible] and we'll let you know if they are all [inaudible] issues. This was December of 2004. [Inaudible] hopefully I can work the Universal Language Corporation offer later this month. [Inaudible] he comes back January [inaudible] email and he responds to our email. He says I can turn my attention to Universal Language Corporation again [inaudible]. I'm hoping to [inaudible] some program about [inaudible] in the next couple of weeks. This is January of this year. And then by May of this year, he [inaudible] I sent a couple of emails, we are [inaudible] we were advised at that meeting to send a letter to the congressperson.

We did write a letter to I'm thinking Leonard [phonetic] who I believe is a congressman in our district [inaudible]. [Inaudible] maybe there would've been an appropriate place to send that letter, because up until this day we've not had any response from the office of the congressman. However, by May of 2000—this year, we received another letter from GSA, from [inaudible] and he said I hope to have some follow-up questions for you today or tomorrow, sorry for the [inaudible] response delayed, and at that point Judy and I, [inaudible] maybe it was best to go back to the [inaudible] proposal and have them [inaudible] to GSA, which we did and I believe GSA received our complaint from that office and by June 22nd [inaudible] we received another email from the GSA guy saying I'm checking on the status

right now.

And we also received another one. I mean I can go on and on and on, it's all promises. I'm back in the [inaudible] and I'm working [inaudible] this is, I could go on and on [inaudible].

MR. SORUM: What I'd prefer, you've got two specific comments for two different agencies.

MS. UGBEBOR: Yes.

MR. SORUM: If you would give me the comments and the relevant facts, we'll take them and we'll deal with them. I said at the outset we don't do contracts, but when you're not paid for work you performed, we do that. We do that with a vengeance. So if you would make sure that I have that information.

MS. UGBEBOR: Okay. Can I also—

MR. SORUM: The guy who will solve the GSA problem unfortunately is in Frankfort today, but he'll be back next week. And we'll make that work for you, as long as it has merit. I have to qualify that, you know.

MS. UGBEBOR: Thank you very much.

MR. SORUM: We don't promise yeses to everything, we just promise answers. Thank you. Paul Lee. [Pause] He's not here? All right. Eduardo.

EDUARDO GERALDO: Good morning, my name is Eduardo Geraldo. I'm the president of the Queens Hispanic Chamber of Commerce, and I also serve as chairman of the board of the New York State Coalition of Hispanic Chambers of Commerce. I have not a few issues that I'd like to address this morning. Mainly about, the first one would be in the how the Small Business Administration defines the language of the small business [inaudible]. I think small business, it could be less than 50 or 100 employees, [inaudible] according to the SBA it says it's 100 employees and now when you're really a small business 100 employees, that's a lot of employees I think. And—

MR. SORUM: That's another hearing, not this one. [Laughter] I don't touch size standards.

MR. GERALDO: So in the chamber, you know, we're trying to, we've been working with the SBA. I think the SBA has come a long ways. You have some great people in New York, but I think we can do a lot more. I guess this is what I'm coming from because hear this warning about issues of quality of contracts being awarded, how payments are being done, how the rules are being broken. And I think if we, if the chamber and the SBA will come together and help us give a hand to the small business owners and to the certification process, [inaudible] here in New York being part of the [inaudible] government, if you have more than \$20,14\$50,000 in assets, you can't

qualify. But if you buy a house here in New York, house is \$600,000, so right off the bat you are out of business, you know.

So there's things that they [inaudible] represent and really have to define what small businesses are and how they really, the SBA can really help us [inaudible] and grow our business, because it's a huge distance between a company of 5 employees or 10 employees to a company of 100 and more employees. And that's a concern because then it's not fair competition, you know, we have, most companies have their, they have good products, good services, and [inaudible] we can't compare with the big boys, they're not going to have a chance to compete.

And as is well known, America's built by the small business owners. You hear the president say all the time that we are the strength of this country, we're creating jobs, and I think if the government wants to help us out a little bit more, help us [inaudible] small business owners.

The other part that I'd like to bring up this morning is the [inaudible] I guess this issue is for the [inaudible]. We have a lot of [inaudible] when they, they've been working in the [inaudible] business [unintelligible] are collecting. Soon as the person has a corporation they're breaking the law, and so [inaudible] you've got to pay all this money back, [inaudible] small business owner [inaudible] business plans, it takes a long time before you open the doors, so I think the correlation [inaudible] between the [inaudible] and how it can really help small business owners when they start. Because when you start a business I think it's very, very difficult. As a matter of fact, 90 percent of some of the business, you know, or, 97, [inaudible]. So we need breaks when we start a business as small business owners.

And I'd like to say that really I'd like to bring the efforts of the SBA more to our local economies, to our neighborhoods, to helping [inaudible] as an emerging market that is going tremendously but it needs a lot of help. It needs a lot of [inaudible] because as the baby boomers age and retire, the Hispanics are going to grow and grow and grow more, and we need to [inaudible] so we can be integrated into the American system. Thank you very much.

MR. SORUM: Thank you Eduardo. Now you know where some of those things that you've raised can go. That's to the new president and CEO of the new Hispanic Chamber of Commerce. Otherwise known as Michael Barrera, the former [inaudible] ombudsman.

MR. GERALDO: As a matter of fact I have called his office and I emailed him.

MR. SORUM: All right. So well he was in Mexico so he's been out of touch and he's trying to figure out what's going on over

there at his new office, but, you know, have a dialog with him because he can help you a lot in terms of the issues you've raised. So let's see, is there anybody else, any other small business that would like to present issues? Please.

FEMALE VOICE: [Inaudible].

MR. SORUM: There please.

EDELMIRA RUIZ: Good morning. My name is Edelmira Ruiz. I am the smallest of the smallest. [Inaudible] for three years. I used to be a little bigger than being [inaudible]. Why one of the issues is that I like to, it is the issue that is the most important to me is the tendency to be not only for the federal agencies but the, you people [inaudible] the perception of a woman with an accent, specifically a Hispanic woman has been perceived and continues until today as she is only the nanny or the employee of the local laundromat, and that is the perception including my own people. This has to stop. [Inaudible] an American, and I am here to remind everybody that people like me are educated, are [inaudible] and have the capacity to awaken masses, and if I won't be heard today I will exist until somebody will hear me.

Now—

MR. SORUM: Do you have a—

MS. RUIZ: The issue—

MR. SORUM: No, is there a federal regulatory—

MS. RUIZ: [Unintelligible] and one of the issues is [inaudible] the department of the state keeps a [inaudible] when I make complaints [inaudible] to the [inaudible] agencies that competes with me. Well I have the same license, well I have the same [inaudible] never ever compete with them. I have stopped complaining to the department of the state because of the cavalier attitude [inaudible] to much for me to bear. But it specifically, and this one that I [inaudible] I now because this is the biggest loss economically in my business [inaudible] but because it's the most miniscule. To me and to the woman that I am talking in the [inaudible].

The [inaudible] commission receive a [inaudible] complaint by me in January 20th of 19—of this year. I complain about Mr. Martin Vise [phonetic] of [inaudible] Corporation. This man who has many [inaudible] and make appear that he is this small, because every time he buys a building in Harlem for 300,000 and he renovates it, he uses illegal immigrants, legal immigrants, and opens a small corporations. So he has the [inaudible] and the technicalities to appear as a small business corporation when he uses my services and he never pays for it.

I do not have the [inaudible] so I chose the way to complain to the [inaudible] commission by email and also by the internet I went. I finally found in my papers last night, and I'm sorry to [inaudible]

like to give you the information [inaudible] that I complained and I have a complaint number and in January 20th of the [inaudible] commission was [inaudible] not anything else given. That is important to me to remind you that [inaudible] commission or any other federal agencies have responsibilities to us and must, it's of paramount importance to respect, and we don't get that. At least I have never had that respect from these agencies, which in fact every time I have, I've been [inaudible] denied of [inaudible].

MR. SORUM: I'm confused.

MS. RUIZ: Okay.

MR. SORUM: I'm confused. What does the federal treasury commission have to do with illegal immigrants?

MS. RUIZ: [Unintelligible] an issue that I raised a complaint and [inaudible] I never have a response by them. They never say [inaudible] these conclusions, you are wrong, etcetera. To make worse, matters worse, I had the same [inaudible] complaint with the human rights commission in which the person, the operator, again I have to remind that my accent, I don't have to remind you about my accent but I have to remind you about the attitude of the operating [inaudible] there it is very bad. They [Inaudible] human rights commission handed me one. I go back—

MR. SORUM: I'm still confused. There is no human rights commission in the federal government, so what are you talking about?

MS. RUIZ: What I am talking about is the inability for people like me in small businesses to [inaudible] the concerns that I have because I do not have the financial funds to have an attorney represent me, even—

MR. SORUM: But what I want to know—

MS. RUIZ: To pay, to pay my services.

MR. SORUM: What I want to know is what action has been taken by a federal regulatory agency against you and your small business that makes you—

MS. RUIZ: None. None, you know that [unintelligible]—

MR. SORUM: None? Well then you don't have anything to say.

MS. RUIZ: Non-action is [inaudible] action. To do nothing? It is to deny my rights to be heard.

MR. SORUM: I'm sorry, this is not a court, so anyway.

MS. RUIZ: [Unintelligible].

MR. SORUM: I think that you, you're finished. Thank you

very much.

MS. RUIZ: [Unintelligible] that is the attitude that I have all the time, and this is what it has to change. Thank you very much for these two seconds. Thank you [inaudible].

MR. SORUM: You're welcome. Again we have to deal with issues, not with—

MS. RUIZ: That's an issue, sir.

MR. SORUM: Yes, Kirk?

MALE VOICE: [Inaudible] everybody's going to scatter. I need to speak to somebody from the IRS because [inaudible]. I only have but so many [inaudible].

MR. SORUM: All right. Thank you Kirk, yes.

MARITZA POLANKO: All right. I just want to have a little answer about—

MR. SORUM: Please go—

MS. POLANKO: Can I go there?

MR. SORUM: Yes.

MS. POLANKO: Oh. [Laughter]

MR. SORUM: We've been waiting all morning.

[Laughter]

MS. POLANKO: I have the accent too. [Inaudible] my name's Maritza Polanko. I'm a small, well not a small, micro. [Inaudible] is when you have 25. He said a small business is 500 up? We are pretty small. We need to classify us, all right? A micro business. Minority companies [inaudible].

[Crosstalk]

MR. SORUM: Please.

MS. POLANKO: Okay. Thank you.

MALE VOICE: [Inaudible].

MS. POLANKO: Thank you. My small business [inaudible] recent company. We do a lot of [inaudible] promotion and out of [inaudible]. [Inaudible] last year we did a two year contract that was a small, micro contract. One for 10,000, another for 25,000, that's okay, that's fine.

As you know, everybody knows, a small business, very hard right now to build and become [inaudible], to build it and to going. Going to the second level it seems hard because the economy [inaudible] a lot of [inaudible] happen right now. But what [inaudible] problem is that this issue I was ¹⁸ having right now. We tried to get

[inaudible] to go to the second level, to try to get a contract, and we beat on those contracts, like [inaudible] compete with a [inaudible] company, still [inaudible] competition is pretty good. And make it [inaudible] hard. We working hard for where they are right now.

But my question is we get a two year contract, 45,000. To be finished in this year. But the second part of the second year they not, they [inaudible] they said we need to wait until, you know, they answer it, you know, and we are, they send us sign a paper like to be [inaudible]. We are a small business and we need money. We have a cash flow problem, and we have a [inaudible] and we expect [inaudible] two year, you know, it's still growing.

What we need to do in this case? How, if we have a contract that should be finished by now, [inaudible] when we get, what happens in this case? I don't know if you understand my question.

MR. SORUM: Well I understand your question. And I'm not sure exactly how to answer it. We cannot tell federal agencies, even our own, how to spend their money. I mean I've had fixed base operators try to tell me that the FAA ought to reopen their inspection facilities so that they can stay in business. Well, you know, the congress appropriates the money and the agencies spend it according to what they see as their priorities. In terms of your problem, I don't know what to say exactly, you know, there's some ways that you can get things done that are effective.

MS. POLANKO: [Unintelligible] this year, you know, [inaudible] you know? What we can do? We tried to [inaudible] government contract, we want [inaudible] government contract, and one of them say, okay [inaudible] the quote was quoted but they say [inaudible] 60 days to get [inaudible]. The government, if they pay me, I'm going to pay you, you know, and [inaudible] million, million contract. I just did 1 percent on the [inaudible] contract. [Inaudible] one million dollars.

MR. SORUM: Well I think you're pretty good at marketing, I think you'll probably work it out.

[Laughter]

MS. POLANKO: Okay. Thank you so much. Sorry for [inaudible].

MR. SORUM: Thank you. No, that's terrific, thank you.

[Crosstalk]

MR. SORUM: I know, but again I don't do contracts. Unless you're not getting paid. If you're not getting paid then you can talk to me. Any other small business that would like to come forward at this time? If not, Alan Steinberg's—

MALE VOICE: He's coming now.

MR. SORUM: —timing is just appropriate because Alan, you're on.

[Laughter]

MALE VOICE: Before you pass it on to Alan, I forgot to say who I was. Just realized that actually. I'm [unintelligible] and I'm the deputy director of the SBA office upstairs on the 21st floor. In addition to this of course you know that we have a number of services where we can assist all of you. I have [inaudible] contracts [inaudible] providing people limited financing, of course as the ombudsman had mentioned, this is not his capacity to handle cases like that, but however, if you were to come upstairs and talk to us, we're on the 21st floor right in this building and you have an issue of technical assistance where you can come and speak to SCORE or you have a financing issue you want to discuss with us, please feel free to do so. Thank you.

ALAN STEINBERG: Many years ago when I first got into the world of public service, I was fond of the saying of former president Reagan when he said the most fearful thing for a business person to hear is hello I'm from the government and I'm here to help. [Laughter] In this age the Small Business Administration really is here to help. Today is a perfect example of that. The fact that the national ombudsman, Peter Sorum, came from Washington to hear your issues regarding enforcement of regulations and matters you felt were unfair or perhaps even inefficient at times.

Peter is out here today. He is the outreach from Washington taking back or letting them know what the issues are and to the other agencies. In the same fashion, as I said earlier when I gave my welcome speech, if you have issues regarding not only regulations but small business policy in general, you can feel free to contact me. Again my email address is alan, A-L-A-N, [.Steinberg@sba.gov](mailto:Steinberg@sba.gov).

[Unintelligible] I act as both ingress and egress. I am egress in terms of being the outreach person from Washington on issues regarding regulation that may affect you either in a positive or negative way, and I'm ingress back to Washington to let them know what's going on out there. So again, those of us in the SBA family, when we say we're from the government and we're here to help, we mean it and we thank you for being with us today and letting us know your thoughts and your concerns on these issues. Thank you very much.

[Applause]

[END RECORDING]